

### **REMARKS**

The Office Action of September 22, 2005 has been studied in detail along with the references applied and cited by the Examiner. In response, selected claims have been withdrawn (claims 7, 8, 15, 16, 24, 25, and 32-40) and other claims amended (claims 1, 9, 17, and 28-31). The pending claims should be read in conjunction with the accompanying arguments and supportive patentability. Further examination and reconsideration of the application as amended are respectfully requested.

### **THE OFFICE ACTION**

Claims 17, 18, 21, 26 and 27 were rejected under 35 U.S.C. §102(b) as being anticipated by Winston (U.S. Pat. No. 5,431,098).

Claims 1, 3, 9, 11, 17, 19, 20 and 21 were rejected under 35 U.S.C. §102(b) as being anticipated by Gueret (EP 1044625/ U.S. Pat. No. 6,334,727).

Claims 2 and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gueret.

Claims 4-6, 12-14, 22 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gueret and further in view of Boyd et al. (U.S. Pat. No. 4,452,940).

### **REJECTIONS UNDER 35 U.S.C. §102(b)**

The Examiner rejected claims 17, 18, 21, 26, 27 under 35 U.S.C. §102(b) as being anticipated by Winston. The Winston reference discloses an ink impregnated sponge for applying ink to an image on an ink stamp. The disclosed sponge shape has side walls that intersect at a first end, where an angle between the side walls is acute at the first end. Winston

recites that images formed from ink applied from regular shaped ink sponges are often unacceptable. The sponge is not compressed or sealed before use or while being stored. In contrast, independent claim 17 now recites a base wall having a top edge, removable top removably fixed to the side wall around the entire top edge, the base wall, side wall and top defining an open compartment openably sealed by said removable top.

In addition, independent claims 17 and 26 recite wherein an applicator may be stacked with identical applicators. This structure is not shown or described in Winston. The Examiner asserts that Winston provides “said skirt (46) being capable of surrounding and engaging the upper side wall (50) of an identical rigid applicator (10) whereby several applicators may be compactly stacked”. To the contrary, there is nothing to suggest that several applicators may be compactly stacked. The inside diameter of skirt (46) is different from the outside diameter of side wall (50) and thus, does not allow for several applicators to be compactly stacked. Furthermore, the height of side walls (46) (in Winston) does not provide enough clearance wherein a sufficient height is provided which would prohibit the inner surface of one ink stamp from contacting the ink sponge of another ink stamp in a stacked orientation. Thus, in a stacked arrangement, Winston would not provide for a “lid portion” having walls of sufficient height to prevent the lid portion inner surface of one ink stamp from contacting the ink sponge (16) of another ink stamp. Therefore, the construction objective of Winston, as described in column 5, lines 64-68 and column 6, lines 1-3, would not be met if one ink stamp was stacked with another ink stamp.

Applicants have amended claims 28-31 wherein claims 28-31 are now dependent upon claim 26. Claims 28-31 are drawn to a stackable applicator (group I). Applicants submit that the

pending independent claims 17 and 26 and all claims dependent therefrom, are not anticipated by Winston for at least the reasons set forth above, and are allowable over this record art.

Applicants accordingly request reconsideration and allowance thereof.

The Examiner rejected claims 1, 3, 9, 11, 17, 19, 20 and 21 under 35 U.S.C. §102(b) as being anticipated by Gueret. The Gueret reference discloses a non-stackable applicator assembly configured to allow one part of the applicator to be engaged with a container containing a first product in the form of a gel or liquid. The applicator assembly further includes a lid configured to removably cover the first applicator member by engaging with a support. In a closed end of the lid, there is a second product in the form of a solid cake or powder. Skirt (3) may include a snap fastening mechanism such as the rib (9) or groove (10) shown in figure 1(a) and may be configured to engage with a corresponding mechanism provided on the container (column 6, lines 22-25). In this regard, the skirt (3) is capable of engaging another corresponding container but does not describe nor suggest that the skirts are capable of surrounding and engaging an upper side wall of an identical rigid body whereby several applicators may be compactly stacked.

Gueret does not disclose a top around the entire top edge of the side wall wherein the side wall and base wall define an upper compartment having an openable closed top. The foam body (20), of Gueret, is not compressed in the aforesaid upper compartment when the removable top (11) is in place.

In contrast, amended claims 1 and 9 recite “a top removably fixed to said side wall around said entire top edge, said at least one upper side wall and said base wall defining an upper compartment having an openable closed top”.

Applicants submit that the pending independent claims 1 and 9, and all claims dependent

therefrom, are not anticipated nor made obvious by Gueret for at least the reasons set forth above, and are allowable over this record art. Applicants accordingly request reconsideration and allowance thereof.

Independent claim 17 has been amended and now recites “a base wall having a top edge, a removable top removably fixed to said side wall around said entire top edge, said base wall, side wall and top defining an upper compartment openably sealed by said removable top...” None of the aforementioned structures are shown in Gueret. Applicants submit that the pending independent claim 17, and all claims dependent therefrom, are not anticipated by Gueret for at least the reasons set forth above, and are allowable over this record art.

#### **REJECTIONS UNDER 35 U.S.C. §103(a)**

The Examiner next rejected claims 4-6, 12-14, 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Gueret in view of Boyd. As stated above, Gueret does not anticipate nor make obvious Applicants’ device.

The Boyd reference teaches a liquid container, flask, that has a concave construction. The Boyd reference describes a flask used for drinking.

The references contain no motivation or suggestion to combine the references. The applicator of Gueret describes a skirt (3) designed to engage with a corresponding screw thread provided on a container on which the applicator is intended to be fitted. The container thus facilitates grasping the combined applicator and container device. The applicator of Gueret is used for applying creams, gel, powder, etc. to the body or to the hair (column 1, lines 5-20). Combining Gueret with Boyd, even if suggested, would not result in Applicants’ device.

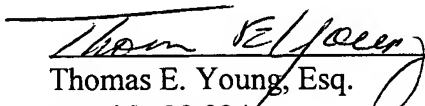
Consequently, claims 4-6, 12-14, 22 and 23 define over any fair teachings attributable to the references either taken singularly or combination.

**DOUBLE PATENTING**

Applicants enclose a Terminal Disclaimer in compliance with 37 CFR 1.321(c) to overcome the provisional rejection based on nonstatutory double patenting.

All formal and informal matters having been addressed, this application is in condition for allowance. Early notice to that effect is solicited.

Respectfully submitted,  
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